

Case No: OKUDP0105US

PATENT

CERTIFICATE OF MAILING OR ELECTRONIC TRANSMISSION UNDER 37 CFR 1.8(a)

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/Mark D. Saralino/
Mark D. Saralino

May 22, 2009
Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Masanori ITOH

Application No.: 10/520,548

Filing Date: January 6, 2005

For: DATA PROCESSOR

Examiner: Nigar Chowdhury

Art Unit: 2621

**Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

Sir:

Applicant hereby requests for a Pre-Appeal Brief Review of the decision of the Primary Examiner mailed January 22, 2009 finally rejecting claims 1-9 and 12-17. This request is being filed with a notice of appeal. No amendments are being filed with this request.

Application No.: 10/520,548

Favorable review and reconsideration of the above-identified application is respectfully requested for the reasons stated on the attached sheets.

Should any additional fees be necessary for the filing of this request, Applicant hereby authorizes the Commissioner to charge said fees to Deposit Account No. 18-0988.

Respectfully submitted,

RENNER, OTTO, BOISSELLE & SKLAR, LLP

/Mark D. Saralino/

Mark D. Saralino

Reg. No. 34,243

DATE: May 22, 2009

The Keith Building
1621 Euclid Avenue
Nineteenth Floor
Cleveland, Ohio 44115
(216) 621-1113

REMARKS

I. REJECTION OF CLAIMS 1-7 AND 12-17 UNDER 35 USC §102(e)

Claims 1-7 and 12-17 stand rejected under 35 USC §102(e) based on Sasaki et al. However, for reasons described herein, Sasaki et al. fails to teach all of the features of the claims of the present invention. As a specific example, Sasaki et al. fails to teach or render obvious that the data written on a storage medium complies with the MPEG-2 system standard.

i. Claim language

Claim 1 exemplifies claim features of the present invention that are similarly recited in remaining independent claims 12-17. Specifically, claim 1 identifies a data processor that includes, *inter alia*, a writing section for writing encoded data and auxiliary information to a storage medium, wherein the encoded data and the auxiliary information are written on a storage medium as a data file that complies with the MPEG-2 system standard and an auxiliary information file, respectively. The encoded data on the storage medium is decodable by either the auxiliary information file or the MPEG-2 system standard.

That is, the data that is written to the storage medium remains compatible with the conventional format (i.e., MPEG-2), and may also be reproduced in accordance with another format (e.g., MPEG-4) using the auxiliary information. (See, e.g., specification, page 68, lines 6-15.)

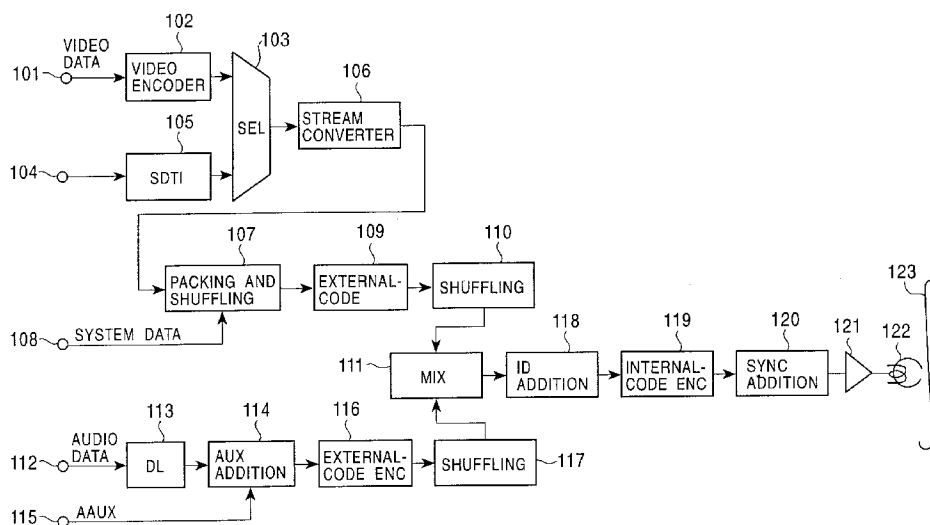
ii. Sasaki et al. does not teach that data written on the storage medium (i.e., magnetic tape) is a data file complying with the MPEG-2 system standard, as claimed in the present invention

Sasaki et al. discloses an apparatus for converting an MPEG-2 compliant data stream into a *non-standard shuffled format* for subsequent recording onto a magnetic tape. Sasaki et al. further discloses that the apparatus is capable of reproducing and converting the non-standard shuffled data stream to a stream that conforms to MPEG-2.

Conversion of the data stream from MPEG-2 to a non-standard shuffled format in accordance with the teachings of Sasaki et al. improves the error immunity of the recording by disbursing burst errors caused by an imperfection on the tape. Furthermore, the conversion from the non-standard shuffled format to an MPEG-2 compliant format allows the reproduced image to be easier to be seen in a speed-change reproduction, in which a reproduction operation is performed at a tape speed different from that used in recording.

Figure 1 of Sasaki et al., reproduced below, illustrates the recording side of the apparatus, which includes stream converter 106.

FIG. 1



With regard to the recording process described in Sasaki et al., paragraph [0052] teaches that the stream converter 106 *rearranges* and *converts* the MPEG-2 compliant stream (that was generated according to the process described in paragraphs [0039] and [0050-0051]). Specifically, paragraph [0052] recites:

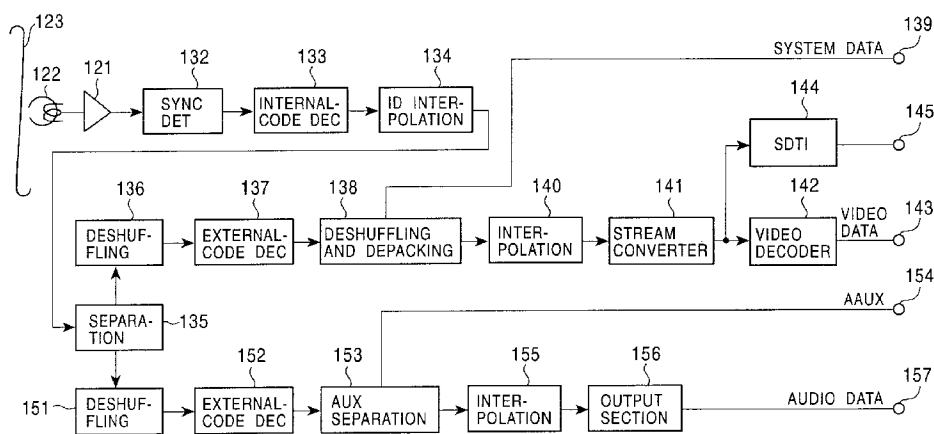
“The stream converter 106 collects DCT coefficients arranged in each DCT block according to the MPEG-2 specification, by their frequency components throughout a plurality of DCT blocks...and *rearranges* the collected frequency components. The rearranged *converted* elementary stream is sent to a packing and shuffling section 107.” (emphasis added)

The subsequent packetizing, shuffling, etc., further effectuate the conversion of the MPEG-2 compliant stream to a non-standard shuffled format before being recorded to tape 123.

Hence, the data stream ultimately written to the magnetic tape 123 of Sasaki et al. is not MPEG-2 compliant, as the MPEG-2 compliant stream has been converted by the rearrangement performed by the stream converter, as well as the packing, shuffling, etc. that is performed by the other components of the recording and reproduction apparatus of Sasaki et al. That is, while the rearranged converted stream may not be converted to another recognized system, the data stored on the recording medium is rearranged and converted to a non-standard shuffled format to the extent that a conventional MPEG-2 reproduction apparatus would be unable to reproduce the recorded stream without reproduction first being performed by the decoding apparatus of Sasaki et al., described below.

Figure 2 of Sasaki et al., reproduced below, illustrates the reproduction side of the apparatus, which includes stream converter 141.

FIG. 2



In particular, Figure 2 illustrates the processing that is necessary to convert the data stream back to a data stream that is MPEG-2 compliant. During reproduction, the non-standard shuffled data stream is reproduced from the tape 123 and is subsequently packetized, shuffled, etc., before being sent to the stream converter 141.

Paragraph [0066] recites that, “[w]ith [the operation of the stream converter 141], the reproduced signal is *converted* to an elementary stream that conforms to MPEG-2.” (emphasis added) Specifically, the reproduced signal is converted from the non-standard shuffled format to the MPEG-2 compliant format by rearranging DCT coefficients for each frequency component in each DCT block. Only after the rearranged converted stream of data is decoded is the stream again identified as being MPEG-2 compliant.

As evidenced by the discussion of the reproduction side of the apparatus of Sasaki et al. as illustrated in Figure 2, a conventional MPEG-2 reproduction apparatus would be unable to decode the information stored on the magnetic tape 123 unless that apparatus is equipped with Sasaki et al. decoding apparatus.

Accordingly, while the apparatus of Sasaki et al. begins with, and ultimately produces, MPEG-2 compliant data, the data recorded on the magnetic tape is not itself MPEG-2 compliant. Rather, the paragraphs referred to in the Office Action merely recite that the aspects of the data which is being acted upon is based on MPEG-2 compliant data. None of the paragraphs cited represent that the data which is written on the storage medium (e.g., magnetic tape) is a data file complying with the MPEG-2 system standard.

Hence, Sasaki et al. does not teach that encoded data is *written on a storage medium as a data file complying with the MPEG-2 system standard*, as recited in claim 1. Sasaki et al. in no way states or suggests that the MPEG-2 stream that is rearranged and converted by stream converter 106, packed and shuffled by the packing and shuffling section 17, EEC encoded by the external-code encoder 109, rearranged by the shuffling section 110, mixed with the similarly shuffled audio data by the mixer 111, and ultimately recorded on magnetic tape 123, is compliant with the MPEG-2 system standard.

Furthermore, to the extent that Sasaki et al. is relied on as teaching the claimed MPEG-2 *system* standard, Sasaki et al. instead refers to the MPEG-2 *video* standard. Paragraph [0050] describes the elementary stream as being generated from the video

encoder 102, meaning that the elementary stream conforms to the MPEG-2 video standard. As described in the background section of the present specification, MPEG-2 system standard incorporates auxiliary information in the system stream. (See, e.g., Specification, page 2, lines 8-14.) Paragraph [0050] fails to teach such features.

Accordingly, for at least the reasons stated above, applicant respectfully submits that the rejection of claims 1-7 and 12-17 under 35 U.S.C. §102(e) should be withdrawn.

II. REJECTION OF CLAIMS 8 AND 9 UNDER 35 USC §103(a)

Claims 8-9, which depend from claim 1, stand rejected under 35 USC §103(a) based on Sasaki et al. Claims 8 and 9 contain at least the features of claim 1. Accordingly, for at least the reasons stated above, applicant respectfully submits that claim the rejection of claims 8 and 9 under 35 U.S.C. §103(a) should be withdrawn.

III. CONCLUSION

Applicant therefore respectfully submits that Sasaki et al. does not teach or render obvious each and every feature of the invention as recited in independent claims 1 and 12-17, or the claims dependent therefrom. Applicant respectfully requests that the rejections under 35 USC §§102(e) and 103(a) be withdrawn.

Accordingly, all claims 1-9 and 12-17 are believed to be allowable and the application is believed to be in condition for allowance. A prompt action to such end is earnestly solicited.